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**Regulation of International Trade: The Struggle
of Multilateralism in the Era of Regionalism**

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Master Thesis Proposal



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Proposed Topic:

Regulation of International Trade: The Struggle of Multilateralism in the Era of Regionalism

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Topic Characteristics:

My thesis will focus on the regulation of international trade and the impact free trade has on the welfare of individuals, nation-states, regional bodies and the overall global welfare. The role and capacity of intergovernmental organizations, in particular the United Nations (UNCTAD and ECLA), International Monetary Fund and the World Trade Organization, will be analyzed mainly using the policy documents of these IGO as well as their real capabilities in the international trade arena. Moreover, the role of nation-states, as arguably the most important regulators of trade, will also be a key topic through-out the thesis. The loss of sovereignty when entering a regional trading bloc can often differ based on the relative economic and political power of the given nation-state. This can pose a major threat to the stability of international trade. The thesis should be interesting both for academic scholars as well as the average reader because the topic is relevant to our every-day life and our every-day choices. As individuals living in a capitalist society, we frequently interact as customers (buying goods) or vendors (selling goods) and therefore we are key actors in the regulation of international trade. However, our decisions in the market arena are mostly determined by a self-interested and rational cost-benefit analysis.

While the theoretical background of international trade will not be neglected in order to provide the reader with sufficient background knowledge, the main focus will be on the current issues of international trade; the widening gap between world's richest and poorest citizens, exploitation of developing countries natural resources and cheap labor force. A crucial part of the thesis will be identifying the advantages and disadvantages of regional trading blocs and analyzing whether such trading blocs are an example of protectionist policies or whether they are a natural occurrence in the world of trade and commerce. In order to portray the benefits and cons of regional trading blocs opposed to absolute free trade through multilateralism, various quantitative indicators will be analyzed. Examples of such indicators are the Bertelsman Stiftung, UN Human Development Index, OECD sustainable governance indicators or World Bank indicators. Moreover, it will be critical to distinguish regional trading blocs which promote trade between developing states and developed states and those which mostly consist of developed states.

1. Hypothesis #1: Free trade has a positive impact on the economic welfare of both developed and developing countries.
2. Hypothesis #2: Regional trading blocs are a form of protectionist policies and therefore put states outside of the region at a disadvantage.
3. Hypothesis #3: Regional trading blocs consisting of developed and developing countries often put developing countries at a disadvantage.

Methodology:

In order to prove or disprove my hypothesis, I will be using both the qualitative and quantitative methodologies. My qualitative methodology will provide the reader with an understanding of the values, ideas and experiences surrounding the key topics of the thesis. The quantitative methodology, on the other hand, will provide statistical data regarding the well-being of both developed and developing nation-states upon the entry in bilateral, regional or multilateral trade agreements. Overall, the methodology used in this research will be mostly empirical, as I will be

observing and analyzing data as well as analyzing the experiments done by other scholars in this field.

Outline:

- I. Introduction
- II. Theoretical background
 - a. Adam Smith and David Ricardo
 - i. Absolute advantage/specialization
 - ii. Comparative advantage
 - b. Mercantilism
 - c. Laissez-faire
 - d. Liberalism and Neo-liberalism
- III. Actors
 - a. Nation-states
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 - i. EU
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 - i. Consumer choice
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 - iii. Migration
 - d. IGOs
 - i. WTO
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 - g. Media

- IV. Ethics and trade
 - a. Nature of capitalism
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- V. Regulating regional trading blocs
 - a. IGOs authority
 - b. Nation-state sovereignty
 - c. Consumer choice

- VI. Contemporary movements
 - a. Fair trade
 - b. Alternative trade organizations
 - c. "Neomercantilism?"

- VII. Conclusion

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Author

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Supervisor

DECLARATION:

I hereby declare that this thesis is my own work, based on the sources and literature listed in the appended bibliography. The thesis as submitted is 124 906 keystrokes long (including spaces), i.e. 72 manuscript pages.

Your name

Your signature

Date

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Chapter I: Introduction

“The proposal of any new law or regulation of commerce which comes from this order [those who live by profit] ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined, not only with the most scrupulous, but with the most suspicious attention. It comes from an order of men whose interest is never exactly the same with that of the public, who have generally an interest to deceive and even to oppress the public, and who accordingly have, upon many occasions, both deceived and oppressed it.”¹ Even though humans have been trading goods, ideas and services for thousands of years, regulation of international trade is a concept still in its developing stages. The regulation of international trade is a complex issue because in today's globalized world, it demands a balance between policies of domestic governments and bilateral and multilateral agreements. Arguably, the most significant actors are national governments who often cooperate together by entering into bilateral, regional or multilateral agreements, providing favourable conditions for the trade of commodities between private actors seeking to improve their economic well-being. Furthermore, politicians of national governments create policies, which must be respected by private actors taking part in trade. Most trade activities occur between private economic actors, such as firms or corporations, rather than between nation-states directly and fall under the jurisdiction of domestic law of the importing and exporting countries and their respective agreements. However, there are many trade activities where governments allocate particular projects to firms (e.g. the construction of a highway), which have been subject to investigation due to the possibility of corruption taking place. Even though corruption is a great problem for many nation-states, it will

¹Adam Smith, 1776

not be the main focus of this research. The main focus will be on preferential trade agreements between nation-states which provide the members of the agreements with favourable trading conditions. National governments enter into bilateral (with one other nation-state), regional (based on a region or preferential partnership) or multilateral (with multiple nation-states) agreements. While multilateral agreements or international conventions involve a large amount of nation-states and strive to create identical trade conditions for all member-states, bilateral and regional agreements have been the subject of many discussions due to their possible discriminatory aspect. Such discussions usually take place in intergovernmental organizations such as the World Trade Organization, the International Monetary Fund or the United Nations Conference on Trade and Development. An important part of this research will include interviews with a representative of the World Trade Organization.

Many economic models, using various assumptions, state that free trade (due to the theory of comparative advantage) will make countries better off. Unfortunately, such theories do not always represent reality which has led to many economists questioning the free trade theory and to the increase of fair trade movements. Moreover, the increasing amount of preferential trade agreements has led many people to become sceptical about neoliberal policies and free trade. The main issues of today's state of international trade are poverty and malnutrition in many of the world's underdeveloped regions, the growing gap between the rich and poor, environmental protection and immigration. The problems of poverty, inequality, and incomplete risk and capital markets lead the experience of these countries to diverge from the predictions of the simple neo-classical models.² These issues require further policy adjustments and stricter enforcement in areas, where evil traits such as greed may lead to a deficiency in human rights or

²Stiglitz, 2005, p.6

even violent tensions. Examples of Sierra Leone's diamonds or Sudan's oil show how groups of people can take part in warfare because of natural resources. Often resulting in the deaths of thousands of innocent citizens, including women and children, such warfare must be prevented at any cost. However, this can only occur if states and multi-national corporations, regardless of their economic and political power, take into account concepts related to fairness, equality and welfare of the global community. While many rules are widely accepted and declared in conventions, in many other cases nation-states must rely on reciprocity because international law is, to a large extent, difficult to enforce. This is mostly caused by nation-states not willing to sacrifice their national sovereignty to intergovernmental organizations. Reciprocity is the concept of quid-pro-quo behaviour by nation-states where nation-states reward other nation-states's kind behaviour by kind behaviour. In other words, national governments are aware that if they provide their neighbour with favourable trading conditions, the neighbour will most likely do so in return. Furthermore, multi-national corporations have taken a dominant position in today's globalized international trade arena. Even though these issues will be analyzed deeper in latter chapters, the main focus will be on preferential trade agreements and regional organizations.

“Preferential trade agreements (PTAs) comprise a variety of arrangements that favor member parties over non-members by extending tariff and other non-tariff preferences.”³ Based on this statement, one can easily deduce that PTAs put non-member states and their local producers at a disadvantage. In a perfectly free market, the supply and demand forces would select the producers, which provide a quality product at the most competitive price. In contrast, PTAs alter this natural selection by putting some producers at an advantage and consequently putting some producers at a disadvantage. Whether preferential trade agreements are a form of protectionist

³Ahearn, 2010, p.2

policies or a natural by-product of today's globalized and interconnected environment will be a key question in latter sections. Nevertheless, the amount of PTAs has been rapidly increasing and one has to assume that PTAs will remain a key component in international trade in the years to come. Baldwin states, "This means that the only way to move from fragmentation to coherence when it comes to RTAs is for the WTO to work with regionalism, and not against it."⁴

While individual prosperity drives the forces of the free market and is therefore vital to international trade, basic human principles based on abstract terms such as empathy, dignity and peace should not be ignored. However, one can argue that the opposite can be witnessed. The positive element of the right for prosperity has perhaps grown out of proportion and in many cases has been taken over by greed and a constant fight for financial power. This has led to a growing gap between the world's richest and the world's poorest. Moreover, principles of peace are in some cases ignored when war may actually benefit the main actors involved. Our tolerance of this phenomenon is portrayed by not only the leniency of politicians and the growing power of MNCs, but more importantly by the lack of our participation in protests, demonstrations or strikes.

In today's time, nation-states' governments find each other situated in a "gray zone" because often their political objectives and goals laid out in various international conventions may be overpowered by expectations of achieving high levels of growth. Therefore, the involvement of non-governmental organizations, as well as the media, will be vital to raising people's awareness of the negative side-effects of this "race to the top". Whether international trade will take a positive turn in decades to come will depend equally on the approach of the most powerful nation-states and the regional and intergovernmental organizations to which they adhere, on the

⁴ The Prospects of International Trade Regulation, 2011. p. 138

attitude of multinational corporations, on the influence of the media and on consumer choice.

Nevertheless, raising awareness and debating the unpleasant issues relevant to trade is the first step towards a world, in which trade, an activity dating back thousands of years, can be carried out in a fair-minded manner.

Chapter II: Historical Overview

“The heroes laid down their arms and set about trading to become wealthy.”⁵ Trade of goods dates back thousands of years and has gone through many phases where various theories were the bases for rules, methods and practices of international trade. Trebilcock states, “Trade regulation through the imposition of tolls (a major source of state revenue) has almost as long a history, as do trade agreements between nation-states ó a commercial treaty between the Kings of Egypt and Babylonia existed in 2500 BC.”⁶ While trade has been occurring for a long period of time, many of the most influential theories did not come into play until a few centuries ago. Mercantilism, an influential economic theory of the 17th century, was based on the principle that nation-states should improve their own economic condition through trade, but this improvement would come at the expense of other countries. Mercantilism shows us early traits of government interference because it encourages nation-states to protect their precious metals and claims that trade should only occur when it is favourable for a nation. However, mercantilism became subject to criticism by promoters of laissez-faire in the 18th century, where government intervention was deemed as contrary to beneficial trade conditions. The decline of mercantilism led to the rise of liberalism and even though there were periods of criticism to the liberalist model of free trade, it remains one of the prevailing models of our times.

“The notion that free trade - free trade, unencumbered by government restrictions - is welfare-enhancing is one of the most fundamental doctrines in modern economics, dating back at least to

⁵LaLouette, 1985, p.118

⁶Trebilcock, 2005, p.17

Adam Smith (1776) and David Ricardo (1816).⁷ Following the liberal breakthroughs of economists of the likes of Adam Smith and David Ricardo, European economies started cooperating more intensively in the 18th and 19th centuries. This process included the repeal of laws banning the export of certain materials previously considered essential to national welfare, the abolition of local regulations regarding manufacturing techniques, the adoption of (national) standards in weights and measures, and the end of restrictions on personal economic freedom (continuing bans against unions being a conspicuous exception to the general trend).⁸ Despite a mild return to protectionism towards the end of the 19th century, the world experienced a long era of trade. World War I brought an end to this time of great economic prosperity in the western world, and many states returned to protectionist policies even after the war ended.

After the world wars, the 20th century became greatly influential in shaping the world of international trade because nation-states were involved in a series of negotiations, ranging from the GATT agreement to today's negotiations between regional blocs, for example between member states of the European Union. This series of negotiations led to the inevitable creation of various principles and rules, which govern the arena of international trade up until today. Moreover, it is important to note that the World Trade Organization, the intergovernmental organization responsible for setting suitable trading conditions and overlooking today's world of commerce, replaced the GATT in the 1990s. However, the WTO, due to its lack of involvement in tackling issues associated with international trade, has become subject to criticisms by advocates of fair trade, a topic which will be discussed in latter sections. Moreover, regionalism has become a leading force in the international trade arena as countries are constantly looking to

⁷Stiglitz, 2005, p.12

⁸Trebilcock, 2005, p.17

agree to favourable trading conditions with potential trading partners. WTO Trade Report 2011 confirms, "the establishment of the post-war multilateral trading system did not diminish the attraction of bilateral or regional approaches to trade arrangements and led instead to a period of creative interaction and sometimes tension between multilateralism and regionalism."⁹

The Washington Consensus played an influential role in international trade in the 80s and 90s and represented a shift towards neo-liberal policies. Responsibility was shifted from the state to the individual and the classic pay-as-you-go non-profit system based on the Bismarckian model was switched to a private profit-oriented system. The Washington Consensus faded away in the first decade of the new millennium and recently the G20 countries have agreed to a new set of principles and guidelines for international trade. These principles and guidelines are set forth in the Seoul Development Consensus and encourage developed states to trade with low income countries in order to achieve global economic growth. Moreover, after the failure of the WTO talks in Seattle in 1999 and the consequent protests, the WTO met again in Doha, Qatar in 2001 in order to focus on the growth and development of the world's least developed countries. While it is important that more and more focus is put on the world's least developed countries and large sums of financial aid are being provided to areas of need, the growing inequality between the world's richest and poorest people and the amount of men, women and children suffering from malnutrition and poverty continues to put doubt in the minds of many scholars, economists and consumers alike. The failures of the Doha Development Round will be analyzed in latter sections. Even though trade has been occurring between developed and underdeveloped states, one could question whether it is driven by evil traits or traits of good. Whether international trade is driven

⁹ World Trade Report 2011, p. 5

by greed and purely personal economic interest or whether it is driven by global coexistence, fairness and peace, is up for debate.

A preferential trade agreement is an agreement between two or more nation-states and provides beneficial trading conditions for the participants of the agreement, in most cases by reducing tariffs or providing other favourable conditions for the participants of the agreement. PTAs have been used since the times of empires and until today represent a major component of international trade. Empires were one of the earliest means of securing trade interests. Powerful states – from the Romans to the Ottomans, to the British – used influence and force to create colonial empires or spheres of influence that gave their traders and manufacturers secure access to foreign markets.¹⁰ Reminiscent of today's situation, powerful states were keen to grasp power and influence in the area of trade already hundreds of years ago. Due to trade being as important to kings, merchants and peasants as it is to presidents, firms and ordinary citizens today, its rules and regulations have developed consistently along the way and many components of international trade agreements can be traced back to earlier agreements. Since most European countries also routinely restricted the extent to which foreign ships could carry goods to and from their ports, especially in their increasingly important trade with overseas colonies, early bilateral trade treaties did not attempt to dismantle these domestic protections, but merely sought to ensure that a foreign merchant marine was treated no less favourably than other foreign shipping – leading to the inclusion of a most favoured nation (MFN) clause in some early treaties.¹¹ The most favoured nation clause refers to the clause where a nation-state must make the conditions for every member of an agreement the same as the most-favoured nation. One can argue that today's

¹⁰ World Trade Report 2011, WTO

¹¹ World Trade Report 2011, WTO

state of international trade began to be shaped around the times of colonialism, because during these times some basic rules and guidelines were established.

The 19th century was also influential in shaping today's state of international trade, with Great Britain being a heavy open-trade advocate. Great Britain's politicians realized that if Britain's borders are opened to other countries' products, it will have a better chance at exporting its own products. However, due to the depression in the second part of the 19th century, many nation-states closed their borders and shifted back towards more protective policies. It can be noted, that times of economic depression and stagnation usually go along with individual governments' policies shifting towards protectionism. On the other hand, in times of economic prosperity, nation-states tend to open their borders and practice liberal trade policies. This phenomenon can be related to the events of the 20th century, where one can witness nation-states closing their borders during The Great Depression of the 1930s and during the times of the two world wars. Conversely, one can witness the establishment of the General Agreement on Trade and Tariffs in 1948, representative of a shift towards openness.

The on-going battle between regionalism and multilateralism will be a key topic throughout future chapters as there is an on-going debate among students, professors and politicians regarding these two major frameworks of international trade. While regionalism refers to a group of countries, typically united by geographical proximity, opening up their borders to each other and giving each other favourable trading conditions, multilateralism refers to agreements among a much larger group of countries, preferably all nation-states involved in trading. The most typical example of multilateralism is the World Trade Organization, an intergovernmental organization that looks to oversee and promote liberal policies in international

trade. Prior to the establishment of the WTO in the 1990s, the post-war era of the 20th century represented several waves of regionalism.

The first wave of regionalism in the 20th century took place in post-war Europe. As Europe was emotionally and economically torn after the conclusion of World War II, it began to seek a financial resurrection in the form of regional trade. This led to the establishment of the European Coal and Steel Community which later turned into the European Economic Community. While GATT multilateral trade talks in the form of the Dillon and Kennedy Rounds strived to not put nation-states outside of the EEC at a disadvantage, it could not prevent the evolving regionalism in Europe and the last decade of the 20th century marked a major step in Europe's regional initiatives. The Maastricht Treaty of 1992 removed the remaining barriers to trade within members of the relatively newly established European Union and established a single market in the EU and a common currency, the Euro.

Regional cooperation in Europe motivated other regions for entering into similar regional trade agreements. The United States of America also leaned towards regionalism and bilateralism in the 20th century. Having eschewed regionalism in favour of multilateralism for almost 40 years, the United States suddenly shifted strategies, embarking on an ambitious programme of bilateral negotiations that included, first, a free trade agreement with Israel in 1985, and then, more dramatically, the Canada-US Free Trade Agreement in 1988, later trilateralized to include Mexico in NAFTA in the early 1990s.¹² Furthermore, regionalism was also booming in Asia, with the establishment of ASEAN (The Association of Southeast Asian Nations) and the establishment of APEC (Asia Pacific Economic Cooperation). It is clear that the developments of the 20th century, despite several rounds of talks organized by GATT, were clearly leaning

¹² World Trade Report, 2011

towards a regional approach rather than a multilateral approach. Most countries realized that being able to promote its agenda and defend its national interests is much easier on a regional level and that is the greatest benefit of regional agreements in comparison to multilateral agreements for individual nation-states. However, one can argue that this benefit comes at the expense of the multilateral negotiations. Furthermore, with the establishment of the World Trade Organization, the regional developments of the 20th century have caused a multifaceted international trade arena in which one must not search long to find a series of divisive elements regarding multilateralism and regionalism. In order to get a closer look on this dilemma, the evolution of PTAs will be analyzed and the conditions of various important regional and bilateral agreements will be inspected in latter chapters.

Chapter III: Actors

Regulation of international trade is a complex issue because it involves a large amount of actors such as intergovernmental organizations, the media, the market, the civic sector, the nation-state and individuals pursuing their own personal interests. The complexity is further exaggerated by the varying ideologies and values of the actors involved. Even though the presence of evil can not be eliminated, it can be tamed, as has been proven by the use of the -invisible hand of the market and portrayed by Adam Smith's butcher. It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.¹³ Moreover, the rapid improvement of global telecommunications, for example the internet, is an example of an external force which can positively influence global awareness of issues relating to inequality or environmental protection.

The main actors involved in international trade are consumers, producers, IGOs and domestic governments. These actors all function as regulators of international trade. Furthermore, the influence of the media and NGOs must also be noted. When analyzing the various actors involved, it is possible to apply Immanuel Wallerstein's World Systems Theory, which identifies the basic unit as world systems and separates nation-states into states in the core, states in the semi-periphery and states in the periphery. This division is what represents the division of labour in the world, where states at the core are mostly involved in higher skill capital-intensive production and states at the periphery are involved in lower skill labour-intensive production. The

¹³Smith, The Wealth of Nations, 1776

inequalities of international trade and the difference between a free market and a fair market can be connected to Wallerstein's world system theory.

Nation-states can function as regulators by implicating various economic policies. Firstly, currency measures can negatively impact the economic market. There have been many debates on China's exchange rate manoeuvres, where China decreases the value of its currency to attract foreign investment and therefore boosts its economy. Governments can also function as regulators by imposing tariffs. Tariffs are taxes on imported products, which give domestic producers an advantage over foreign producers and therefore distort the balance of international trade created by the supply and demand forces of the market. Since it is often the case that imported goods are further used for domestic production, tariffs can act negatively even on domestic production. Trebilcock states, "Tariffs, in contrast, distort both domestic production and consumption decisions, first by attracting resources into the protected sector and second by raising prices to consumers above world prices, which in general reflect least cost means of production, thus inducing consumers to allocate their resources to less preferred forms of consumption."¹⁴ One can argue that state intervention through fiscal and monetary policies such as currency measures and the imposition of tariffs can be considered as destructive to fair trade and the global welfare of human beings. Other trade-distorting measures which will be discussed in latter sections are non-tariff trade barriers which include technical barriers to trade, subsidies to local producers or customs duties.

Overall, one can argue that the main driving force behind bilateral, regional or multilateral negotiations is mainly economic interest. This economic interest may depend partially on cultural issues or political pressures, but nevertheless it can be argued that economic interest is the main

¹⁴Trebilcock, 2005. p.75

factor in countries' trade negotiations.

The role of the civic sector is also vital to the regulation of international trade, mostly through consumer choice in the market, but also by granting policy-makers authority through democratic elections. Consumers have the choice of which product they buy and which product they neglect. Consumer choice can be portrayed by the following example: even though coffee produced out of fair trade beans may be slightly more expensive, a consumer may make the 'economically irrational' choice of choosing this product over a mainstream, slightly cheaper product. Furthermore, the civic sector may also affect international trade by migration and therefore shifting the size of the labor force from one country to another and altering the market environment of a particular nation-state. Other aspects of civic sector involvement are demonstrations and the role of non-governmental organizations (NGOs) in raising awareness related to the social injustices revolving around trade and also environmental issues. The political legitimacy granted to policy-makers, through democratic elections or lack of demonstration, should not be underestimated. These are all crucial components of the civic sector and represent the involvement of every-day people in the regulation of international trade.

The media also serves as a regulator of international trade because its function is to raise awareness of the local, national and global issues. With today's state of globalization, many of these issues may relate to international trade in one way or another. The media, through tools such as television, radio, newspapers and internet, has the power to change the viewers' perception on nearly any topic. However, unless they are surfing the world wide web, viewers do not have a wide selection of what they become exposed to. This may lead to corruption in the media sector where, for example, governments influence the media by making arrangements with broadcasting stations to show news that will support the policies preferred by either the ruling

party or the opposition. With that being said, the media must also be regulated in a way that viewers get fair access to truthful information rather than manipulative information. With the number of internet users growing, the internet may impact the media in a positive way because it gives viewers the liberty to surf through millions of alternative sources. One can therefore hope, that in years to come, people will be informed and encouraged to act on the controversial issues of international trade.

An interesting theory that relates to the media as an actor in public policy is the agenda-setting theory. This theory points out that the media is one of the most influential actors involved because it has the power to choose which topics to bring to the public's attention and/or emphasize their importance. Therefore, the media also has the power of reducing the importance of other issues. "Through their day-by-day selection and display of the news, editors and news directors focus attention and influence the public's perceptions of what are the most important issues of the day."¹⁵ The agenda-setting theory is relevant to the regulation of international trade because it portrays how the media has a strong influence over what the public reads, hears and sees, which issues will be debated and which policy areas should be reviewed or altered.

The actors involved in international trade and its regulation all have different interests and aims and so it is important that they provide legitimacy to and respect the principles and decision-making of supranational organizations such as the WTO or the United Nations. However, in practice the situation is not so ideal. In practice, most of the power belongs to governments of individual nation-states, lobbyists and multi-national corporations. These actors dictate conditions of trade and often make scholars and students question the de facto power and influence of the WTO. Nevertheless, the WTO is a combination of the nation-states which have

¹⁵McCombs, 2004, p.1

opted to pursue multilateral trade negotiations. Therefore, one can argue that as the world is becoming more and more globalized and as we have witnessed the creation of several major trading blocs, the role of the WTO in years to come will be even more influential than it was in the past.

Chapter IV: Ethics and Trade

“This disposition to admire, and almost to worship, the rich and powerful, and to despise or, at least, neglect persons of poor and mean conditions, though necessary both to establish and to maintain the distinction of ranks and the order of society, is, at the same time, the great and most universal cause of the corruption of our moral sentiments.”¹⁶ Vast class and wealth differences between members of communities have been present at least since the times of Ancient Egypt or Ancient Mesopotamia, and arguably even since the times of hunters and gatherers. While these differences have been recognized, and through the years often debated by moralists, philosophers, rulers, politicians and ordinary citizens, human kind has not been able to come to a clear-cut conclusion regarding the ethical dilemma of vast class differentials. Furthermore, the phenomenon of trade, which has been occurring for thousands of years, has made it possible for countries, cities, and individuals to prosper from trade and also to enjoy resources which would otherwise not be available. On the other hand, a few individuals have also been able to reap most of the benefits of various trade activities which has led to many scholars questioning the current state of world trading system. These statements portray the two-sided coin of international trade. “Trade in itself, for example when it involved the transportation of goods, might be beneficial to society and deserving of a reward. It is only the iniquity of the trader by which the profession might become tainted, not by a defect inherent in itself.”¹⁷

On one hand, developing countries have been acquiring special treatment when it comes to multilateral trade agreements. Stiglitz confirms, “To the extent that they participated at all,

¹⁶ Smith, Theory of Moral Sentiments, 1759

¹⁷ Spiegel, The Growth of Economic Thought, 1999

they campaigned for special treatment. This took the form of preferential access to the rich countries' markets at tariff rates below those applied to other countries (eventually enshrined in the Generalized System of Preferences) and exemptions from GATT rules. Article XVIII in the GATT rules provided developing countries with differential treatment. Among other exceptions, it allowed economies "which can only support low standards of living and are in the early stages of development" to "implement programmes and policies of economic development designed to raise the general standard of living of their people, to take protective or other measures affecting imports." This recognized the right of developing countries to impose quantitative and other restrictions to protect their infant industries.¹⁸ Due to Article XVIII of the GATT, developing countries were able to avoid obligations imposed on developed countries while taking advantage of GATT membership. While some may argue that developing countries received special treatment and this proves that developed countries were concerned about the welfare of the developing world, one must not forget that many developing countries had a disadvantage arising from the times of colonization. Moreover, developed countries accepted the special treatment conditions mainly because their own national interest also lay in opening the markets of developing countries. The markets of developing countries often provided producers in developed countries with intermediate resources which they used to further produce a particular good at which they had a comparative advantage. On the other hand, one can argue that developing countries are often suffering from trade conditions resulting from bilateral or regional trade negotiations in which they do not have much input because of their relatively weak economic and political power. Even though the WTO, IMF and other organizations recognize the need to help and provide aid for developing and LDCs (least developed countries), many scholars

¹⁸ Stiglitz, Fair Trade for All, 2005. Page 43

are sceptical about the fairness of many PTAs and their trade conditions. Whether ethics and morals are a part of human activities such as trade depend solely on whether ethics and morals are of importance to the individuals/groups in charge.

“About 1.7 billion people in the 109 countries covered by the MPI (Multidimensional Poverty Index) live in multidimensional poverty – that is, with at least 33 percent of the indicators reflecting acute deprivation in health, education and standard of living.”¹⁹ While this is not the responsibility of trade activities, one can argue that trade, when regulated with ethical manners, has the capability to, at least partially, improve the well-being of many of the world’s poorest individuals. “The distribution of the benefits of global relations depends not only on domestic policies, but also on a variety of international social arrangements, including trade agreements, patent laws, global health initiatives, international educational provisions, facilities for technological dissemination, ecological and environmental restraint, treatment of accumulated debts (often incurred by irresponsible military rulers of the past), and the restraining of conflicts and local wars.”²⁰ International trade can prove to be a savior for many underdeveloped or developing countries, as has proven to be the case with some of the “Asian Tigers” in the 20th century. However, opening up a country’s borders to trade is not the only ingredient in the recipe to success as the result also depends on the policies of other, potentially more developed, countries. Developed countries have an advantage because they are not, in most cases, so dependent on trade of a particular resource. This is where the international trade arena becomes unbalanced and allows developed countries to set the conditions of various trade

¹⁹ Multidimensional Poverty Index, UNDP, 2010

²⁰ Sen, 2011, p.409

agreements. One can argue that ignoring this issue while the world's poorest billion citizens suffer from poverty or malnutrition could be considered as strongly unethical.

Developed countries usually have the power to set the rules and conditions of the bilateral, regional or multilateral agreements. "They have negotiated the reduction of tariffs and the elimination of subsidies for the goods in which they have a comparative advantage, but are more reluctant to open up their own markets and eliminate their own subsidies in other areas where the developing countries have an advantage."²¹ One can argue that such behavior by powerful countries is unethical and can create difficulties for developing countries which are dependent on the export of various resources. However, such difficulties can be a result of more reasons, such as internal problems or corruption. There are various reasons for a country's difficulties in economic development and these reasons will be analyzed in further chapters, using quantitative data and a case study.

Another issue which makes it difficult for developing countries to remain competitive in their strong sectors is that many developed countries are protecting the sectors which have actually shifted towards regions providing cheaper labour. Naturally, domestic governments are looking to protect the jobs of their own citizens and so their respective governments provide funds to allow those sectors to continue functioning, despite the fact that the supply-demand forces of the market would have shifted workers from these sectors to other sectors (or possibly to unemployment). A great example is the manufacturing industry in the United States, which has been declining due to the pressures from developing countries' cheap labour. Nevertheless, the United States continues to protect its manufacturing industry and that often puts developing countries under pressure. Another example of how developed countries protect their industries is

²¹Stiglitz, 2005, p.12

the example of the agricultural sector in Europe. The EU, through its Common Agricultural Policy, supports local EU farmers by providing them with subsidies. A subsidy is “a direct or indirect payment, economic concession, or privilege granted by a government to private firms, households, or other governmental units in order to promote a public objective.”²² Subsidies can be considered as a government’s tool to increase the productivity of a particular industrial sector. Such intervention was already considered unnecessary and trade-distorting in the 17th century. In the ‘Essay on the East-India Trade’, Charles Davenant argues against trade-encouraging activities: “Wisdom is most commonly in the wrong when it pretends to direct nature. As it is great folly to compel a youth to that sort of study to which he is not adapted by genius and inclination, so it can never be wise to endeavour the introducing into a country either the growth of any commodity or any manufacture for which nor the soil nor the general bent of the people is proper.”²³ Providing subsidies to sectors, which do not have a natural comparative advantage in relation to the same sectors of other nation-states, can be considered as trade-distorting because it puts producers with the natural comparative advantage at a disadvantage. Moreover, many developing countries rely on the production or cultivation of one or very few products, and therefore such trade-distorting activities as subsidies can have a great impact on the well-being of a developing country’s citizens. The issue of subsidies and other protective measures such as technical barriers to trade will be analyzed in more detail in further sections.

Related strongly to ethics and becoming more and more common in the sphere of trade is the notion of fair trade. “Fair trade is a trading partnership, based on dialogue, transparency, and respect, that seeks greater equity in international trade. It contributes to sustainable development

²² Britannica.com

²³ Spiegel, 2005

by offering better trading conditions to, and securing the rights of, marginalized producers and workers- especially in the South. Fair trade organization (backed by consumers) are engaged actively in supporting producers, awareness raising and in campaigning for changes in the rules and practice of conventional trade.²⁴ One of the main aims of fair trade is not only to create respect between producers and consumers, but also to lobby for better conditions for producers, who are often bullied by larger distributors and left with little choice but to sell their produce at low prices, receiving a small share of the final sale price of the good. Furthermore, fair trade products, with typical examples being coffee or bananas, also aim at spreading awareness and informing the average consumer of the common disparities in the trade of goods and services.

Even though the fair trade movement looks to improve the conditions of the growers and producers in developing countries and raise awareness of some of the inequalities in international trade, the volume of fair trade products opposed to normal products is quite low. Such an unbalanced ratio can cause some farmers to have an advantage compared to other farmers and can lead to tensions among local farmers. Lyon confirms, "Because most producers of any given commodity lack such access, however, the differential distribution of higher fair trade prices is likely to result in heightened economic disparities within producer communities."²⁵ In such a sense, one can argue that fair trade movements contradict with neoliberal policies of free trade because they benefit only a part of the producers while putting the rest of the producers under more economic pressure. "Henrici argues that those who sympathize with the goals of alternative trade need to articulate a set of universal trading rights, analogous and perhaps related to those of

²⁴ WFTO, 2009.

²⁵ Lyon, 2009.

human rights as expressed in the charters of various multinational organizations.²⁶ It can be stated that fair trade is a vital part of the struggle for increased social justice in international trade, fighting to improve the moral aspects of trade and fighting to provide ethics a larger role in future trade negotiations and trade agreements. Nevertheless, it must also be noted that the uneven ratio of fair trade products in relation to normal products is a setback to the fair trade movement and an area of focus for fair trade advocates in years to come.

²⁶Lyon, 2009.

Chapter V: Preferential Trade Agreements

Theoretically, the ideal form of liberalization exists on a unilateral level, meaning that nation-states would open up their markets to other countries without having to negotiate any conditions, removing negotiating costs and preventing countries from pursuing national interests when negotiating with weaker trading partners. Unilateral liberalization of markets is not viable, because governments may not necessarily trust other sovereign nation-states to open their markets and apply equal trading conditions. Negotiations to achieve trade agreements take place instead. When successful, negotiations lead to the signing of a preferential trade agreement and of a free-trade area, customs union or simply by applying lower tariffs than the WTO agreed standard. For the purposes of this research, regional and bilateral trade agreements will be referred to as preferential trade agreements (PTAs).

A preferential trade agreement (PTA), as the name itself implies, refers to an agreement between two or more countries, providing the signees of the agreement with favourable trading conditions. Preferential trade agreements can take the form of free trade agreements or customs unions with common external tariffs. The amount of Preferential Trade Agreements has increased greatly since the 1950s. Figure 2 in the Appendix clearly depicts the great increase, portraying the increase in the average number of PTAs per WTO member from two to twelve within a period of fifty years. While this occurrence can be explained by the export-oriented policies of many nation-states and therefore a natural demand for trade agreements, it can also be considered as conflicting with the multilateral approach to trade. Of the 380 PTAs notified to the WTO as of 2007, 300 agreements were notified under Article XXIV of the GATT, 22 agreements involving developing countries were notified under the Enabling Clause, and 58 under Article V of the

GATS.²⁷ Given that preferential trade agreements lead to a reduction of trade barriers, they comply with the fundamental WTO intention of reducing trade barriers globally. Article XXIV of the GATT provides for the legal exception and states:

5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; provided that:

- (a) With respect to a customs union, or an interim agreement leading to a formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

7. (a) Any contracting party deciding to enter into a customs union or a free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES and shall make available to them such information regarding the proposed union or area as will enable them to make such reports or recommendations to contracting parties as they may deem appropriate.

8. For the purposes of this Agreement:

²⁷Hoekman, 2009

(a) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories.²⁸

Even though preferential trade agreements are compatible with the WTO principles, one can question the effect on future multilateral trade talks. Given that it is easier for countries to apply their points of interest and given that preferential trade agreements are naturally concluded faster than multilateral agreements, governments of both developed and developing countries seemingly favour preferential trade agreements. Preferential trade agreements can be considered as a form of selected liberalization because a nation-state chooses to open selected markets only to a selected amount of nation-states rather than to all nation-states. In return, the selected nation-states open up their markets. One can make the assumption that this quid-pro-quo negotiation can put least developed and developing nation-states who do not have much to offer to foreign consumers at a disadvantage. While some scholars argue that preferential trade agreements are a natural occurrence and support further economic integration among nation-states, others argue that preferential trade agreements are contradicting to the principles of multilateral agreements signed by most nation-states.

²⁸ Glania and Matthes, 2005. Page 39.

As this work will seek to unravel disparities in international trade regarding developing countries, focus must also be made on whether PTAs are being established between developed countries, developing countries or between developed and developing countries. By analyzing Figure 1 in the appendix, one can conclude that most PTAs are signed between developing and developing nation-states and the least frequent PTAs are between developed and developed nation-states. The danger lies in agreements between economically powerful countries and economically weak countries. A developing or least developed country will sometimes agree to lopsided conditions because it may fear that it would otherwise lose market access to a very important product for its consumers or producers. Baldwin confirms, "These tend to be more fully implemented but often involve very lopsided tariff cutting since most rich nations had already lowered their MFN tariffs in GATT Rounds. In other words, they carry the threat of diverting import sources for the developing nation partner (which typically maintains high MFN tariffs) but much less so for the developed partner."²⁹ One must also consider that lobbying may be a crucial factor in the signing of preferential trade agreements. Regardless of whether signed between developed-developed, developed-developing or developing-developing countries, PTAs can be considered as an on-going trend in the international trade system. It is also important to realize that most PTAs are signed because of the stalled talks on the multilateral level. Logically, one can assume that it is easier for countries to negotiate with one or two trading partners rather than with all WTO members at once. On the other hand, one can argue that preferential trade agreements are controversial in respect to some of the most important WTO principles, the principle of non-discrimination and the MFN (most-favoured nation) principle. By providing

²⁹ The Prospects of International Trade Regulation, 2011. page 144

favourable conditions for the PTA's members, in the form of tariff reductions or elimination of other trade barriers, it may discriminate the non-members and their producers.

Geographically, PTAs do not always consist of countries in the same region. Such PTAs, consisting of nation-states in various geographical locations (eg. between EU and Mexico) could be considered more controversial than purely regional trade agreements, where the agreement can be associated with the logical assumption of geographical proximity and hence lower transportation costs. Regardless of the distance between the members of the PTA, PTAs may oppose one of the most important WTO principles: the principle of non-discrimination. While some scholars argue that regional trade agreements and preferential trade agreements are a natural reaction of the interconnected business world, hence assisting further economic and political integration, other scholars consider the signing of PTAs trade-distorting and discriminatory. On the other hand, it must be noted that some scholars also consider PTAs and regionalism as a healthy complement to multilateralism. Even though the rising amount of preferential trade agreements can endanger talks and negotiations on a multilateral level, there are certain merits of the WTO which cannot be endangered by bilateral or regional trade talks. The WTO continues to play a vital role with its Dispute Settlement Mechanism and also with monitoring trade policy developments and providing a forum for multilateral negotiations. Both the risks and the benefits associated with preferential trade agreements will be outlined and discussed in latter sections.

Nation-states decide to enter into preferential trade agreements for several reasons. Firstly, preferential trade agreements improve market access for exporters by eliminating tariffs and other trade-distorting policies such as technical barriers to trade. The economic incentives for countries to pursue PTAs are of great importance and therefore one can witness many of the

developed countries competing over market access to newly emerging countries which provide appealing markets. Especially from the view of developing and emerging countries, market access and market protection is likewise a main motive for the frequent agreements with industrial nations in their region. Moreover, in regionalisation these countries see an opportunity to underpin (lock-in) the credibility of their structural reforms and attract foreign investors.³⁰ Moreover, with today's relatively cheap transportation network, countries are seeking agreements with countries outside of their region as well.

Secondly, PTAs offer deeper integration among members of the agreement because members can agree on and integrate in policy areas that are not included in WTO agreements.

Thirdly, many countries, in particular developed countries such as the United States, Japan or the European Union, are becoming less and less patient with the slow progress of multilateral negotiations. Multilateral negotiations are often stalled by fast-growing developing countries such as China, Brazil or India. Baldwin states, "There is little sign that Brazil, India, and China are switching their attitude towards the multilateral trade system in line with the growing global importance of their trade flows. They are not switching to leadership roles in the WTO. Brazil and China, and to some extent India, are finding that regionalism is an excellent route to getting better market access for their exporters. They are learning that regionalism is the fast, easy and controllable way to liberalise trade; multilateral trade talks are the slow, hard and uncontrollable path. Similar trends are affecting political leaders in the US, the EU, Japan and Canada; they too are starting to find that the regionalism route may be a better, easier and faster way to get improved market access from developing nations."³¹

³⁰ Glania & Matthes. 2005. Page 100.

³¹ The Prospects of International Trade Regulation, 2011. p. 151

Yet another reason is that with the growing amount of PTAs, nation-states who do not take part in PTAs with other nation-states put themselves at a disadvantage in comparison to nation-states who do enter into PTAs and thus get more favourable trading conditions for their exporting producers.³² In general, one can note that nation-states enter into PTAs with other nation-states because it provides them with favourable trading conditions and thus gives them a better opportunity at economic growth and prosperity. Nonetheless, the famous proverb "one man's pain is another man's pleasure" can be ascribed to this behaviour in the international trade arena.

Furthermore, countries choose to enter PTAs, because in today's globalized world, more and more production relies on intermediate goods. These are goods produced in one country while being required for the production of a good in another country. Preferential trade agreements are vital to countries relying on intermediate goods. Other reasons why countries may choose to enter into preferential trade agreements are not related to economic benefits of free trade. Indirect benefits such as political partnership with another country may be the case. Political pressures from an influential country may encourage smaller countries to enter into trade agreements because of indirect benefits. It may be that non-economic issues such as national security, peace or common environmental issues can also provide motivation for countries to enter into preferential trade agreements.

³²Hoekman, 2009. p.479

Dangers of PTAs

As the number of PTAs has increased rapidly over the past few years, one must wonder about the dangers of PTAs to the multilateral network. While the benefits and motivations for countries to sign PTAs are more or less clear and revolve around economic and political national interests, the dangers of PTAs must be outlined as well. It can be argued that one of the main negative effects of regionalism to the multilateral trading system is that regionalism affects global market access by giving trading partners of the particular PTA better trading conditions, causing artificial competitive advantage. The negative effect of trade diversion is caused by the fact that possibly more efficient suppliers from non-member countries that are discriminated against by the association are replaced by competitors from the partner country who are more expensive and can only artificially offer goods and services at a lower price owing to the agreement. Seen from a global perspective, this situation can lead to ineffective specialisation and a questionable allocation of resources.³³ While market access for producers outside of the preferential trade area can be a serious issue, causing shifts of production from areas where a country would naturally have comparative advantage to production in areas where it may not be as competitive as in the initial market, it is not the only danger of PTAs.

Baldwin states, "The real threat is that regionalism is becoming so pervasive that it may soon be the rule rather than the exception. It could contribute in a forceful way to the erosion of WTO-centricity in the world trade system."³⁴ Baldwin and other scholars recognize that the rapid increase in regional trade agreements can push multilateralism out of the way and become a norm

³³ Glania & Matthes, 2011, page 101.

³⁴ The Prospects of International Trade Regulation, 2011., page 148.

for countries willing to negotiate on trade issues. The main reason for this is clear and obvious: nation-states find it easier to move forward with their areas of interest in trade talks involving a smaller amount of members. The WTO website states one of its principles as 'A country should not discriminate between its trading partners and it should not discriminate between its own and foreign products, services or nationals.'³⁵ Whether preferential trade agreements, providing a signee of the of the PTA better market access to certain goods or services, are a form of discrimination is up for debate. Logically, it is easier to negotiate with one or two other countries rather than with over 150 countries. Therefore, with the amount of preferential trade agreements increasing rapidly, there is less and less incentive for countries to negotiate on a multilateral level. Hence, many countries are often not willing to sacrifice something in order to move forward with multilateral trade talks because they know that when negotiating on a bilateral or regional level they will not have to sacrifice (or they will have to sacrifice less). One can only speculate whether the stalemate of the Doha Development Round is in any way connected to the proliferation of PTAs.

Another threat that PTAs pose is the threat to norms and values which have been established by the WTO, especially issues of fairness which have been promoted especially in the Doha Development Round. Some critics argue that failures of the Doha Development Round, combined with the vast proliferation of PTAs are proof that there is an evident shift from multilateralism to regionalism. Baldwin argues, 'The emergence of RTAs between uneven nations ó be it between the trade giants, the US, the EU and Japan and developing nations, or between the trade giants, India, China and Brazil and developing nations ó tend to undermine this

³⁵ WTO.org, 'http://wto.org/english/thewto_e/whatis_e/what_stand_for_e.htm'

-fairnessö³⁶ Clearly, Baldwin and other scholars recognize that there is a big asymmetry in economic power between the North and the South. Moreover, there are also differences in the institutional capacity between the North and the South, making negotiation and bargaining more difficult for least developed countries. Very often it is the case, that less developed or developing countries lack vital institutional resources and therefore their negotiating capabilities are weakened in comparison to developed countries.

Posing a further danger, preferential trade agreements are mostly notified to the WTO when they are already agreed to and signed by its members. Other countries therefore seek their own PTAs in order to remain competitive. Glania confirms, öWTO members should already be informed at the time when such negotiations are initiated. Thereby, the WTO members that are not included are supposed to be given the opportunity to exert an influence on the creation of regional trade agreements. This consultation process is non-binding, however, and not used in general.ö³⁷ One can imagine that it is very challenging for the WTO to interfere with preferential trade agreements or to challenge the conditions at which they are signed because of the sovereignty of individual nation-states and also because the agreements are mostly notified when the negotiations have already been concluded and the agreements have already been signed. This is an area in which the WTO should perhaps advocate more fairness and transparency by pushing its members to notify the agreements when they are in a negotiating phase. An ideal solution would be if negotiations on bilateral or regional levels took place in official WTO negotiating forums, with representatives of countries not involved in negotiations, having the right of being

³⁶ The Prospects of International Trade Regulation, 2011, page 149.

³⁷ Glania and Matthes, 2005, page.40

present and possibly interfering with negotiations if the negotiations would not comply with WTO principles. Such a step would greatly increase the fairness and transparency of PTAs.

Chapter VI: Interview with WTO

The World Trade Organization is a key organization in today's regulation of international trade. Even though its *de facto* powers are in the hands of individual nation-states and therefore often questioned by scholars world-wide, the World Trade Organization can nevertheless be considered the most influential intergovernmental organization in the international trade arena. In order to get a better insight on how the WTO feels about the current state of international trade, the deadlock of the Doha Round and about the rapid increase of preferential trade agreements in the past few years, an interview with Rohini Acharya, the Chief of section of the Regional Trade Agreement Section in the Trade Policy Review Division of the WTO, was conducted on March 5th, 2013. Following each question, there will be comments on the given answer.

Q: Dear Ms. Acharya. Thank you for giving me the opportunity to conduct this interview. The topic of this interview will be the dilemma between multilateral agreements and regional trade agreements. Furthermore, activities which can be considered as barriers to trade will be discussed. Can you please describe your position in the WTO?

A: *I am the chief of section of the Regional Trade Agreement Section in the Trade Policies Review Division of the WTO.*

Section 1: Introduction and objectives

Q: Thank you. The WTO is a multilateral organization which functions as a regulator of international trade. Could you please briefly define the main objectives of the WTO?

A: The main objectives could be different depending on who you are in the WTO. But for me personally, the objectives of the WTO is to firstly ensure a rules-based international trading system and to facilitate discussions between WTO members to reduce tariff and non-tariff barriers to trade.

Comment: Ideally, objectives should not be different depending on who you are. Members of the WTO have all signed identical agreements and therefore one can assume that their objectives as members of the WTO would be the same. Even though priorities may be different, the WTO must also push its members to think and act alike when it comes to setting and carrying out the objectives of the WTO.

Q: How would you describe WTOs success carrying out those objectives?

A: In the area of tariffs there has been considerable success because tariffs are now down to approximately 4-5% on average across the world. In the area of non-tariff barriers there have been greater difficulties mainly because we don't know what the non-tariff barriers are and we don't know how to measure many of them. And some of the non-tariff barriers are simply not within the scope of the WTO; members have not agreed to including them in the WTO.

Comment: Non-tariff barriers will be discussed in later sections as they are also a crucial part of trade regulation. The difficulty of measuring non-tariff trade barriers poses a major threat to trade liberalization across the world. One can question the success of the WTO in reducing tariff barriers because one can assume that a nation-state can replace tariff barriers with non-tariff barriers. Therefore, quantitative data in regards to tariff barriers may not be accurate because tariff barriers can be replaced by non-tariff barriers. Moreover, the success of tariffs can be considered as a partial success because the tariffs have only been decreased from approx. 10% to

approx 4-5%, which one can consider only a partial success due to the amount of resources involved over the long period of negotiations. This may also be a reason why many members are frustrated with the entire process.

Q: Based on the WTO website, the first objective is to set and enforce rules for international trade. How are the rules enforced by the WTO? Is it challenging going up against the sovereignty of national governments or the capacity of multi-national organizations?

A: First of all, the WTO is the sum of its members so it is really up to the members to decide how the rules are enforced. They bring cases to the WTO, they bring complaints to the WTO and the WTO has a framework to address those complaints. The extent to which they are able to enforce those rules depends on international law, the weaknesses of international law and the willingness of its members to enforce their own rules. It is challenging in the sense of whether national governments choose to enforce the rules. If the national governments choose to not enforce the rules there is not much the WTO can actually do.

Comment: It is also important to mention the way business is operated has changed greatly over the past 10 years. Today, firms and companies are moving around and the production network is based on several different countries. The production process is disintegrated and there are usually several stages of production. This means that companies want this process to be as smooth as possible, with as few tariffs as possible on the different stages of production. This is what is motivating companies and firms to push nation-states to pursue bilateral and regional trade agreements with the partners involved in the production process.

Q: Are there noticeable differences between the various cultures in their approach to multilateral negotiations? Please elaborate with the use of an example.

A: Yes, I think that the East, for example the Asian governments, tend to base their disputes much more on resolving them through consultation whereas the West, for example the US, takes a much more legalistic attitude.

Q: The second objective is to provide a forum for negotiating and monitoring further trade liberalization. Do you feel the amount of negotiations regarding trade liberalization is sufficient? Are national governments, in particular the governments of developed countries, doing the maximum to liberalize trade?

A: I don't know how you would measure whether negotiations are sufficient. I suppose if you achieve what you are looking for then they are sufficient. In the moment we have not achieved what we are looking for but it is not clear that that is because there is not a sufficient amount of negotiations. I think there are differences in opinions, which means that countries are still far apart in terms of deciding. I think to a large extent, especially in the area of tariff and non-tariff barriers, developed countries are the ones that have made the efforts so far. The current round is about trying to bring in some of the developing countries as well into liberalizing their own trade barriers. It depends on what kind of barriers you look at. If you look at barriers that are inside the country, behind the border, then possibly both developing and developed countries have not done a sufficient amount to reduce those barriers.

Q: The fourth objective is to increase the transparency of the decision-making process. Could you elaborate on that? What concrete steps are taken to increase transparency?

A: Several steps have been taken to increase transparency. This division is one of the divisions, which enforces the transparency aspect of the WTO. The trade policy review body was set up in the late 80s simply to review the trade policy of all member governments without any

implications of a dispute. So it's basically a peer review, a review by all members and all countries are subject to it. There are other kinds of mechanisms that also exist. We also monitor regional trade agreements. There is a trade monitoring exercise that goes on several times a year which monitors barriers to trade to see whether they have gone up or down.

Q: The sixth objective, which is to help developing countries benefit fully from the global trading system, will be one of the focuses of this project. Why is the WTO responsible for helping developing countries?

A: I would argue it is not responsible for helping developing countries. It is responsible for helping all countries and its responsible countries improve economic growth through liberalization of economic growth. It just happens that developing countries form the largest part of the membership of the WTO.

Section 2: Regionalism vs. multilateralism

Q: "According to most classical liberal economists, the goal of free trade, cherished by the WTO, will lead to the optimal utilization of the factors of production in ways that reflect variations in comparative advantage. Such an optimal allocation will ultimately lead to an increase in collective welfare of all participants. (Michalak, 267)" How do bilateral and regional agreements affect this goal?

A: The WTO is much more of a mercantilist approach. If you take your example from international trade theory further, then unilateral liberalization is the best solution: reduce all your barriers to trade and it will be good for your consumers and for your producers and you will therefore be able to use comparative advantage in the way it is supposed to be used.

However, in the WTO the approach that is taken is ‘give me this and I will give you this’ it’s much more based on negotiations. I would argue that the WTO has been successful mainly because it succeeded in reducing, according to a formula which has been agreed between its members, trade barriers globally. Developed countries have done more, developing countries have done less and least developed countries have done nothing. I think that is because developing countries had the feeling they are at a disadvantage and therefore they should be asked to liberalize less. In other words, exports are good and imports are bad. Whereas today, in order to export you have to import.

Q: Bilateral agreements have been increasingly dominating the international trade arena. One example of this development can be EU’s increased cooperation with the ‘Asian giants’. In your opinion, are bilateral agreements a form of protectionism?

A: They could be, but I am not sure you can argue that for all bilateral agreements. Some bilateral agreements exist simply because parties wish to go beyond what currently exist in the multilateral trading system. One of the reasons for the sudden increase in bilateral and regional agreements is that the WTO negotiations are going nowhere and the countries that wish to liberalize further markets end up going to do so on their own. However, if you actually look at bilateral agreements, some of them would imply that in a sense there are certain sectors which you are willing to protect more. And it’s easier to do that on a bilateral level than on a multilateral level. On the multilateral level, at the moment what is happening in terms of discussions there is a formula that is agreed for cuts across the board, in both agricultural and non-agricultural sector. Whereas in the agricultural sector, there is a tendency to protect much more and it has nothing to do with being a developed or developing country. So yes, it could provide an incentive for some countries to continue to protect certain sectors.

Comment: This dilemma between distinguishing whether nation-states have the desire to liberalize further markets or the desire to protect some of their own markets (in particular agriculture) can be considered as one of the most challenging issues for the WTO in years to come. The intention is critical to global welfare in the long run and therefore the WTO should be able to distinguish whether preferential trade agreements are signed with the intention to liberalize further markets or to protect some of their own markets. When a nation-state seeks to protect its market, this can have a negative impact on the international trade flows and a negative impact on producers in third countries, which would otherwise have the comparative advantage in the given product. A case-study of the United States of America will portray this importance in Chapter IX.

Q: What kind of effect do bilateral agreements between developed countries have on developing countries?

A: It depends on whether it is one of their largest markets, the effect would be negative because they lose market shares. In general, regardless of whether it is between developed countries or between developed and developing countries. If it is a key market then your producers and exporters are likely to lose as a result of losing market shares.

Comment: In terms of trade diversion in the short-term, one can argue that there is a negative impact for developing and least developed countries when agreements are signed between developed countries. Moreover, it is the least developed countries which have to rely more on their key markets because their level of capital is at this point in time not as established as the capital of developed countries. Besides the empirical impact to all countries, one can also argue that the least developed countries become marginalized or ignored as developed countries pursue agreements with the dynamically developing countries such as the BRIC (Brazil, Russia, India,

China). Therefore, the role of the WTO is increased when it comes to protecting the interests of least developed countries and making sure they do not become politically marginalized from developed and developing countries. Regardless of the economic power of the countries signing the agreement, one can argue the losses of market shares to producers and exporters in countries not involved in preferential trade agreements are a consequence of other countries signing preferential trade agreements. On the other hand, there can be positive long-term effects of agreements between developed countries on least developed countries because such agreements can create larger economic activity and increase production demand from other countries. That is a dynamic effect which can be observed in years to come. However, in the short-run it remains important that least developed countries do not become marginalized or ignored due to the rising amount of preferential trade agreements.

Q: Similar to bilateral agreements, regional trade agreements give member states beneficial trading conditions. Logically, this results in a disadvantage for nation-states outside of the particular region/agreement. What is the WTO's perspective on regional agreements and how do you feel they will develop in the 21st century?

A: *We have fairly neutral view on regional trade agreements. We don't know much about them because they are negotiated outside of the WTO. We only learn of them when they are actually notified to the WTO. Recently, we have started to look at them in more detail and thereafter they get reviewed. Since 2006, we have started to look at the agreements in greater detail and started to produce our own reports. So it means we are now in a better position to see what is going on inside of these regional agreements. In regards to the impact of these agreements, I'm not sure we have much of a view on that simply because regional agreements are here, they will continue to be here and it's unlikely that we will be able to do anything about it.*

Comment: In the 1990s there was a fundamental approach to preferential trade agreements in a sense that it was an either/or choice between regional and bilateral trade agreements or multilateral agreements. With the proliferation of preferential trade agreements, we are now witnessing an approach where countries are willing to negotiate on both the regional and multilateral level. This approach will continue to be of importance to the global economic welfare. Therefore, it is important that the WTO continue to look at preferential trade agreements in greater detail and that there are strict forms and guidelines for preferential trade agreements. One aspect which would improve the cooperation of multilateralism and regionalism would be if nation-states would report to the WTO their will to sign preferential trade agreements rather than waiting to report them when they are already signed. This would allow the WTO to have better control of the conditions at which preferential trade agreements are signed and would most likely help the countries which are pressured by economically stronger countries to sign agreements which may include features and aspects not as beneficial to the economically less powerful nation-states. Policy-makers in national governments must take into account both regionalism and multilateralism but at the same time they must also realize the fact that preferential trade agreements are currently having a greater role in the arena of international trade. In that sense, countries will continue to look for how preferential trade agreements can improve their economic well-being, but it is important that they do so while following the multilateral commitments which they have promised to abide by.

Q: The amount of regional trade agreements between developing countries is on the rise (as indicated in figure 2). Can this be considered as a type of defensive reaction of the global south against the well-established bilateral and regional agreements in developed areas? And is this proof that multilateralism is on the decline?

A: I am not sure that I would lump developed and developing countries into two separate groups.

Yes it is true that most regional agreements were started by developed countries, but In fact developing countries have been signing their own agreements for a very long time. The oldest customs union is the Southern African Customs Union. It is a defensive reaction on a part of some countries, but it is regardless of whether they are developing or developed countries. It is simply a defensive reaction not to be left out of RTAs. For example, Japan did not want to sign RTAs for a long time and now they are beginning to sign RTAs. I would argue that countries started to sign regional trade agreements simply because their neighbours were doing it. In my opinion, multilateralism and regionalism will continue in a parallel fashion.

Q: One can argue that bilateral and regional trade agreements between economically equally developed countries are mostly beneficial for both sides. However, the problem may be negotiations between developed and developing countries because very often the interests of the developed countries come out on top as the developing country has little choice but to subordinate to the demands of the developed country. How does the WTO regulate bilateral and regional trade negotiations, in particular those between developed and developing countries?

A: We don't. It is completely outside of the scope of the WTO to regulate these agreements. It is true that in some bilateral negotiations, a more powerful country is able to dictate the conditions to the less powerful country.

Comment: The North-South agreements seem to be a major issue because there is a great asymmetry in economic power and also there is an asymmetry between the negotiating capacity of the countries. Therefore, it can be difficult to come to a balanced agreement. Addressing this problem from a legalistic approach may be a problem for the WTO, but they can provide capacity building for less powerful countries such as technical assistance, provide lectures or advisor

service. Finally however, this has to do more with negotiating strategy and tactical issues rather than the legal framework and legal capacity of the WTO.

Q: Regionalism can also be witnessed in preferential-trade agreements between nation-states who are geographically located far from each other. This phenomenon contradicts with the argument that regional trade agreements are beneficial due to the geographical proximity of the countries involved and hence the low transportation costs. What is your opinion on regional trade agreements between nation-states separated by great distances?

A: It's an issue simply of market access. I'm not sure that the whole question of -I want to enter this market- is often well thought-out before the negotiations actually take place. In many cases it is a political decision taken on a very high level and taken on the basis of political friendship.

For that reason, some agreements are terrible and therefore in general, regional trade agreements contradict with the most-favored nation principle.

Comment: The negative aspect of preferential trade agreements is that it will create a disparity in the market access available to countries. In that sense, regardless of the distance aspect, the benefits are not distributed equally. However, even though regional and bilateral agreements contradict with the WTO's most-favored nation principle, there is nothing to prevent countries from pursuing such agreements even with remote countries. Trade with neighboring countries can often be limited and that explains the desire of countries to seek market access in countries located geographically further. Furthermore, political incentives may also motivate or pressure countries to enter into preferential trade agreements with more powerful countries.

Q: In your opinion, are regional and bilateral agreements a form of protectionism or rather a natural occurrence in the international trade arena?

A: I think to a large extent they are a natural occurrence partly because there is a feeling among some countries that there is a stalemate in the WTO, that it is too difficult to negotiate with a large amount of countries. And therefore, countries choose certain partners which may be more willing or think along the same lines as them

Comment: In most cases one can argue that PTAs are not a form of protectionism but rather countries are looking for deeper economic integration in order to achieve economic gains.

Q: Contradicting to the opinions of Bhagwati, Krueger and other economists, who are strongly opposed to regionalism and claim that trading blocs can fragment world markets into exclusive and potentially hostile camps through unilateral protectionist policies (Michalak, 264), there are some scholars who claim that regionalism can promote negotiations on a multilateral level due to their great stability and political weight. How does the WTO feel about this?

A: It is true that regional agreements divide the world into geographical islands where there is an agreement between a certain amount of countries which keep out others. But at the same time, if you look at modern RTAs, they include some of the issues which members are reluctant to include in the WTO negotiations. So in a sense, they are pushing the boundaries and they are pushing to include issues that affect trade but which certain members refuse to have included in the WTO.

Section 2: Barriers to trade and the dispute settlement system

Q: The WTO is an advocate of trade liberalization. How do you explain the use of barriers and interventions to free trade such as subsidies, import quotas or non-tariff barriers? What can be done to prevent these trade-distorting barriers? How much say do the end product consumers have?

A: Subsidies is a big issue that has held up the current round in 2008-2009. Subsidies are recognized as a big problem. There is the whole cotton issue which revolves around the use of subsidies by developed countries. The issue is how do you negotiate and agree to reduce those subsidies. Do you do it for developed countries only or do you do it for developing countries as well? It's like an iceberg where the tip of the iceberg is the tariff barriers because that is something that consumers and exporters know they are paying for. Subsidies are more hidden because we don't know how much subsidies certain countries provide, you don't know what they provide them for and the impact of those subsidies. So it is a much more difficult issue to try to tackle. The consumers are not taken into account by most governments. Most governments tend to take their producers into account, not their consumers.

Comment: One can witness that preferential trade agreements have been able to harmonize more behind-the-border measures such as product standards, rules and non-tariff barriers to trade and regulatory barriers. In that sense, regionalism has a great role to play in eliminating for example disparities in technological standards. On the other hand, the WTO has a greater role to play in the case of subsidies.

Q: Selling a domestic product cheaper in foreign countries, also known as dumping or predatory pricing, is condemned under WTO principles. However, it is not forbidden. Why is such activity not forbidden completely?

A: That is something that is up to the negotiations. There are mechanisms and rules that have been put in place to ensure that we all measure dumping in a uniform manner. All countries should use the same measure to calculate whether a product is being dumped or not. There also exist measures to try and deal with that dumping.

Q: How do you feel about export subsidies?

A: Not particularly great as I don't think that they should be used. Again, it is an issue that can only be dealt with at the multilateral level. In most RTAs, the parties agree to not use export subsidies. However, this is usually not effective and therefore has to be done at a global level.

Q: What can be done to limit the amount of subsidies and not put producers outside of subsidized areas at a disadvantage?

A: Well, it can be done on different levels. One is that the EU decides to limit its own subsidies. The second is that they agree internationally to reduce those subsidies or eliminate them altogether. To some extent, the EU is making an effort in a sense that its own budgetary constraints are requiring them to reform the CAP and reduce subsidies. And there are negotiations going on here as well to try and agree on limits on subsidies. The step that was taken in the Uruguay Round was the first step and it now needs to be taken further.

D: In your opinion, in which ways is the agricultural sector different from the industrial and manufacturing sectors and what are the reasons for receiving so much attention from national governments?

A: Well, it depends where you are. In a developing country it means that millions of people are actually attached to the land and their livelihood is based on producing a few crops. There I think the problem is much more critical because if you take that livelihood away from them then what can you give them in return and what can they actually do? Whereas in developed countries the issue is somewhat different because the level of poverty is not as high. In both developed and developing countries there is a great deal of abuse of the system as well. The use of subsidies is not something that is particularly efficient and regardless of whether it is different or not, agriculture is treated different because many people are attached to the land. However, because the number of people attached to agriculture is decreasing in developed countries, this decrease

should go hand in hand with reform of say the CAP or the subsidies that are provided by the US to its own farmers. However, there are also politics involved and there are strong lobbies and that is possibly one of the reasons why the reform does not take place or does not occur as fast as it should.

Q: In regards to exports, developing and least developed countries rely most on their agricultural sector due to the fact that they are not as technologically or industrially advanced. On the other hand, WTO permits member states to grant subsidies only to agricultural sectors. Would you agree, that due to the developing countries' greater dependence on the agricultural sector, large agricultural subsidies in developed countries represent a great hindrance to the trading capabilities of developing and least-developed countries?

A: *Yes.*

Q: What is your opinion on the legal power of the WTO in comparison to the legal sovereignty of individual nation-states?

A: *Well when one compares international law to national law, then international law has no teeth. Even when the Dispute Settlement Body passes a decision, it is up to the member state to enforce this decision. There is nothing the WTO can further do about it and therefore national law is sovereign.*

Q: Currently, out of 456 disputes which have been brought to the WTO since 1995, 143 cases are still in consultation. Out of these 143 cases, only 18 are less than three years old. How do you explain the large amount of cases which remain in consultation? What chances do these cases have of getting resolved?

A: The members are the ones that decide if they want to continue the consultations or take it a step further. There is no way the WTO can motivate the member states to move further with the consultations

Comment: In the consultation process, there may be a political agreement that can be found.

Promoting political agreements and mutually agreeable solutions and preventing retaliatory actions such as sanctions should be one merit of the WTO.

Section 3: Doha Development Round

Q: The Doha Development Round commenced in November 2001 and was seen as a potential remedy to the existing trade barriers around the world. Moreover, it focused greatly on bringing citizens of developing nations out of poverty. Nearly twelve years later, how would you define the success of the Doha Development?

A: Not a success. Partially the reason is because the number of members has changed.

Developing countries are a more important group and want to have a greater say than they have in the previous rounds. The issues are more complex and have changed over the past 10 years. The whole dynamic has changed because in the previous rounds there were fewer developing country members in the negotiations.

Comment: Clearly, developed countries must now begin to keep in mind the power of developing countries, such as the BRIC countries, which have proved in the Doha Development Round that they can be very influential and strong negotiators. Once again, the WTO must play a greater role in advising both developed and developing countries on how to negotiate in order to come up with a conclusion to the Doha Development Round, which has been stalled for several years now and is making many countries pessimistic about multilateralism.

Q: Multinational corporations are powerful actors in the sphere of international trade. However, MNCs do not belong under any nation-states jurisdiction. Therefore, one may ask which sets of laws, rules or regulations should MNCs abide by?

A: *That's upto their governments. Surely, MNCs have a home-base somewhere and they need to be regulated by the laws of their home nation-state.*

Q: Income inequality, measured by the Gini coefficient, is increasing in the majority of both developed and developing countries. Is this the sole responsibility of individual nation-states or does the WTO have a say on this issue?

A: *No, the WTO has no say on this issue. We can observe it, we can make recommendations but in the end we have no effect on changing the Gini coefficient.*

Q: Overall, how would you describe the current state of international trade? What can be done to decrease the regional movements and increase negotiations on a multilateral level? How do you feel about the idea of regional organizations cooperating on a multilateral level?

A: *The state of international trade at the moment is not particularly good. There is a shift towards developing countries, whose growth rate of exports is now larger than many countries of the developed world. The world economy is not doing very well, it is a question of business cycles and it is a question of the on-going economic crisis. The problem is that the WTO can make different recommendations but in the end it's really the members that have to decide what to do. They are the ones involved in negotiating regional trade agreements, they are the ones that know that there is a problem in terms of the relationship between regional trade agreements and the multilateral trading system. There have been plenty of recommendations on how to reconcile the two systems. But in the end the problem is that members do not wish to negotiate on this issue.*

Comment: In this answer, one can witness an example of how the WTO is using an innocent bystander approach. While it is true that it is upto the members to negotiate, decide and act on a various range of issues, one can argue that it is also upto the WTO to motivate members to negotiate on important issues which they do not want to negotiate on.

Chapter VII: Doha Development Round

Prior to the current Doha Development Round, there were several rounds of multilateral negotiations. Figure 3 in the appendix portrays the history of multilateral trade talks and shows the length of each round, the name under which it was negotiated (the name originates either from the location at which the negotiations of the particular round were initiated or the political figure who was influential in initiating the talks), the subjects covered and the number of countries involved in the negotiations. One can notice a number of trends when analyzing the history of multilateral trade talks. Firstly, the length of the negotiations increased with each round. Each of the first five trade negotiation rounds did not take longer than 2 years and each covered only tariffs as the subject of the talks. One can assume that the relatively short length of these trade talks can be associated with the small number of countries involved. Moreover, the countries involved in the initial rounds were mostly only developed countries and this fact made it easier to negotiate together because there were no vast economic differences. Opposite from the Uruguay and Doha Round, there was not a group of countries which felt it should receive beneficial treatment. At the same time developing countries placed more stock on the development potential of trade as many of them turned away from import substitution policies. As they did so, policy-makers in newly opened developing countries recognized the importance of participating in trade negotiations. As a result, in contrast to the Kennedy and Tokyo rounds, developing countries were actively involved in the discussions that led to the Uruguay Round: the large number of accessions or requests for accession to the GATT from such countries at that time (including Mexico and China) indicated that the issues on the table were being taken

seriously by a growing number of developing countries.³⁸ The shift of the developing countries and their willingness to pursue multilateral trade talks represented a positive step in multilateral trade talks and brought a lot of hope and optimism to multilateralism itself.

When the Uruguay Round was being concluded, developing countries were promised large gains in welfare. Stiglitz states, "In 1992-3, the World Bank, the US Organization for Economic Cooperation and Development, and various other institutions made projections of welfare gains on the order of US\$ 200 billion a year."³⁹ Unfortunately, this has not been the case and most of the benefits of the Uruguay Round went to developed countries. Many of the interests of the developing countries, revolving around market access in agriculture and textiles, were not made a priority. Instead, the interests of developed countries were at the top of the agenda. Stiglitz continues, "Several reforms which were significant sources of predicated gains did not proceed as had been hoped early in the negotiations. For example, the Agreement on Textiles and Clothing (ATC) was structured to back-load liberalization significantly; the ability of tariff-rate quotas (TRQs) to liberalize agricultural market access was overestimated; and the costs of implementation were almost completely ignored."⁴⁰ Even though the Uruguay Round failed to fulfill the promises to developing, and more importantly least developed countries, it will be remembered as a great step forward in multilateral trade talks. The Uruguay Round taught the world that multilateral negotiations are a new culture in trade negotiations. While the promises were not completely fulfilled and the gains of the developing and least developed countries not realized, the Uruguay Round can be considered a success because it proved that

³⁸ Stiglitz, 2005. Page 45.

³⁹ Stiglitz, 2005. Page 46

⁴⁰ Stiglitz, 2005. Page 47

multilateral trade talks with a large amount of countries ranging from developed to least developed countries is indeed possible.

The Doha Round commenced in November of 2001 and twelve years have passed and the world is yet to witness a conclusion to the round. Many of the developing countries, learning from their experiences in the Uruguay Round, are now stalling the negotiations. Instead, both developed and developing countries have signed preferential trade agreements with each other in order to provide their producers and consumers with market access. Whether the proliferation of preferential trade agreements is a by-product of the stalled talks at Doha or vice-versa is up for debate. Baldwin mentions three main reasons why the Doha negotiations have failed to reach a consensus. "The Doha negotiations have suffered from a number of consecutive failures to make advances. There is ample evidence that the combination of consensus rule, the member-driven nature of the organization and the single-undertaking approach for trade negotiations have contributed to this situation."⁴¹ The consensus rule refers to general agreement of opinions, where one member of the WTO has the ability to stall talks if it does not agree with the given conditions. This consensus rule is criticized by Baldwin as ineffective: "Although Article IX WTO Agreement provides for majority voting if a consensus is not reached (with decisions to be adopted open a simple majority of the votes cast), such voting does not take place. The current consensus practice is ineffective because it risks cementing the status quo. From a constitutionalist perspective, it is even more important that this practice is also illegitimate."⁴² Naturally, there are two sides of the argument when it comes to the decision-making process of the WTO. Some argue that having a consensus among all of the members provides the decision

⁴¹ The Prospects of International Trade Regulation, 2011. Page 108

⁴² The Prospects of International Trade Regulation, 2011. Page 96

on the particular topic ultimate legitimacy and ensures that no member is left out of the decision-making process. Others, on the other hand, argue that this form of decision-making with 153 members has stalled the Doha Round and that there is an urgent need for reform of the decision-making process of the WTO. In order to get a better understanding of why the Doha negotiations have stalled, the next few paragraphs will observe the decision-making process.

A vital part of the decision-making process is the single-undertaking principle. Paragraph 47 of the WTO Ministerial Declaration adopted on November 14, 2001, at the commencement of the Doha negotiations states: "With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations."⁴³ The single-undertaking principle means that each topic must be agreed to separately, but at the same time the entire package is not agreed to until all separate topics are agreed to. This principle ensures that the entire package is accepted by all the members and that there is a sufficient amount of bargaining on the various topics involved in a larger topic. Clearly, the challenging aspect of the single-undertaking principle is that due to the large amount of members involved and the great differences in their cultures, there are naturally differences in views, opinions and approaches to negotiations.

Baldwin also refers to the member-driven nature of the WTO. What Baldwin is referring to is what has been confirmed in the interview with Rohini Acharya from the Trade Policy Review Division of the WTO. In many of her answers, Ms. Acharya declared that the responsibility falls

⁴³ WTO.org, 13 Apr 2013. http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm#organization

to the members of the WTO and that the WTO does not have the capabilities to decide for its members. Many scholars have referred to this standpoint as the ‘innocent by-stander’ approach used by the WTO. Granted, the members are the most vital component. However, one can argue that there should be more of a push from the WTO itself to motivate its members to come to conclusions, especially in a time when the Doha Round is at a stalemate and has been the longest round in WTO/GATT history. One can propose an increase in advisory boards consisting of neutral experts which would advise both developed and developing countries, on an individual basis, how to bargain with other members of the WTO. Such an investment may speed up the decision-making process and may push the negotiations further.

Yet another reason why the Doha Round has been stalled refers to the aspect of corporations and firms lobbying their business interests to their respective governments. The business interests of corporations may consequently affect negotiations on an international level. Prior to describing the role of lobbying corporations, Baldwin mentions other popular reasons why the Doha Round negotiations have been stalled: ‘The lack of leadership, domestic politics, conflicting views on development concerns, as well as the aforementioned characteristics of legislative decision-making in the WTO, have been proposed as explanations for the standstill in the current multilateral trade negotiations.’⁴⁴ Domestic politics is arguably one of the main reasons for the stalled negotiations because it refers to a member pursuing its own national political and economic interest by negotiating only with a few selected members in a regional or bilateral trade agreement. As previously described, the great proliferation of preferential trade agreements can be appointed to domestic policy of individual nation-states and their eagerness to open some of its markets and provide their producers and consumers with access to additional markets.

⁴⁴ The Prospects of International Trade Regulation, 2011. Page 119

Furthermore, a chain reaction can be observed, as one can assume that other nation-states continue to seek bilateral and regional agreements because they want to remain competitive in the international trade arena. Firms and corporations may not be willing to bargain or give up their powerful positions because they are mainly driven by their main interests: beneficial profit margins, large turnovers and high revenues. Baldwin continues, "The balance of corporate trade policy interests at the domestic level is thus important since it shapes the politically feasible negotiation solutions at the international level."⁴⁵ It is clear that corporate interests are reflected in members' international trade negotiations and attention must be paid to the various interests and positions across various industries and countries. Moreover, companies are pushing national governments through their lobbyists to sign regional and bilateral trade agreements because of the complex process involved in the production of products required for the production of further products. Given that there are several stages of productions, often occurring in different countries, firms are looking for a decrease in tariffs along the different stages. Furthermore, firms do not have the patience to wait for years before multilateral negotiations are completed, explaining the proliferation of bilateral and regional trade agreements over the past few years. One can consider this topic very sensitive because of the lack of transparency between the range of influence which domestic corporations may have on the politics of WTO members and on the negotiation tactics of WTO members in international trade negotiations.

The Doha Development Round has proved to be a disappointment to multilateralism and multilateral trade negotiations. While there may be secondary reasons for the stallmate of the Doha Development Round, many of them beyond the scope of this research, the main responsibility falls to the members. As the interview with a WTO representative confirmed, the

⁴⁵ The Prospects of International Trade Regulation, 2011, page 119.

WTO consists purely of its members and therefore any success or failure can be ascribed directly to them. Nevertheless, it also remains the responsibility of the WTO to motivate its members to speeden multilateral negotiations. The following chapter will outline the various possible forms of non-tariff barriers to trade, which represent a great problem in the regulation of international trade.

Chapter VIII: Non-tariff Barriers to Trade

Unlike tariffs, nontariff barriers to trade are extremely difficult to measure because of the great variety of such barriers and also because of their non-economic nature. "Nontariff barriers (NTBs) are limits on trade other than tariffs, including quotas, regulations and technical requirements. While many countries claim to embrace free trade, most continue to use a variety of nontariff barriers to restrict the entry of imported goods and services."⁴⁶ Often, many of the non-tariff barriers to trade are implemented in a manner where the particular country seeking to protect its domestic industries from foreign competition cannot be accused of trade-distorting measures. As confirmed in the interview with a representative of the WTO, non-tariff barriers to trade represent a great problem in the regulation of trade and are very difficult for the WTO to control.

In order to get a better understanding of the wide range of nontariff barriers to trade, various forms of such measures will be outlined. The first two types of measures include measures that are applied when the product is either imported or exported across the country's border. "A first category of NTMs are those imposed on imports. This category includes import quotas, import prohibitions, import licensing, and customs procedures and administration fees."⁴⁷ This category mainly refers to the stage where a particular good or service is crossing the border and some further examples can include obstructions by border controls, unnecessary customs surcharges or issues related to the rules of origin. "A second category of NTMs are those imposed on exports. These include export taxes, export subsidies, export quotas, export prohibitions, and

⁴⁶ Folsom, David. Encyclopedia of American Business. 2004. Page. 331.

⁴⁷ Staiger. 2011. Page 2.

voluntary export restraints.⁴⁸ The amount of nontariff measures imposed on exports is not as great as the amount of nontariff measures imposed on imports because the trend is that governments are favouring exports, while looking to protect their domestic industries. A third and final category of NTMs are those imposed internally in the domestic economy. Such behind-the-border measures include domestic legislation covering health/technical/product/labor/environmental standards, internal taxes or charges, and domestic subsidies.⁴⁹ One can argue that the final category is the least transparent due to highly technical terms and measures used in the various standards applied to various products or services. These standards are often met by domestic producers, but are more difficult to fulfill for foreign producers. This trend can be attributed to the various differences in countries' technological advances, access to capital and access to education and R&D (research and development).

Yet another type of non-tariff barriers is safeguards. Safeguards refer to restraints to certain imports with the intention to protect the domestic industry. The Agreement on Safeguards clarifies and reinforces Article XIX. It sets forth criteria for the application of safeguard measures: (1) the product is being imported in increased quantities, absolutely or relative to domestic production; (2) the product causes or threatens to cause serious injury to domestic industry; and (3) the safeguard measure shall only be applied to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.⁵⁰ Stiglitz continues by criticizing the United States for its overuse of safeguard measures to protect domestic producers. If the richest country in the world, the United States, with a strong safety net, relatively high

⁴⁸ Staiger. 2011. Page 2.

⁴⁹ Staiger. 2011. Page 2.

⁵⁰ Stiglitz. 2005. Page 128.

employment level, etc. has to resort to safeguard measures to protect itself against a surge of imports, how much more justified are developing countries in imposing such measures. This highlights again the need to set clearer standards at the international level.⁵¹ Safeguard measures are clearly trade-distorting measures because they put producers in foreign countries at a disadvantage by preventing them from exporting to a particular country. It is important that the WTO motivates its members to apply identical standards regarding the implementation of not only safeguards, but other non-tariff trade barriers. Unfortunately, the use of nontariff barriers has increased over time, indirectly questioning the successes of multilateral agreements on tariff reductions.

The greatest challenge for the WTO and its members is to distinguish which of the nontariff measures are acceptable and which are unnecessary. In other words, it is challenging to determine the true purpose of the various measures. Either, the measures have a legitimate purpose or the purpose is to prevent further imports. All this makes the issues that arise in connection with determining the economic impact of NTBs very different from those surrounding the use of tariffs. As far as trade and the economic impact of NTBs are concerned, much depends on the specific circumstances of their application. To understand the effect of a specific measure requires a case-by-case examination.⁵² The challenges of nontariff barriers to trade will continue to be challenging for the WTO and for its members; both in the sense of measuring them as well as minimizing them and the associated trade-distorting effects. Nontariff barriers will remain one of the most challenging aspects in the regulation of trade in decades to come. One can argue that analyzing policies, which could be classified as nontariff barriers to trade on a case-by-case basis,

⁵¹ Stiglitz. 2005, p.129.

⁵² OECD, 2005, p. 13

would require a great amount of resources. With that being said, one can conclude that it is the individual governments which must play a responsible and active role in decreasing nontariff barriers to trade. Moreover, cooperation, communication and trust between individual nation-states will be vital in decreasing the amount of nontariff barriers in years to come.

Chapter IX: Conclusion

In conclusion, the reasons for preferential trade agreements are clear. Nation-states, regardless of their economic power, are pushed by firms and companies through lobbying to pursue bilateral and regional trade agreements, in many cases providing tariff-free trading conditions and benefiting local producers and exporters. The multilateral negotiations in the WTO, on the other hand, are only decreasing tariffs by a relatively small amount and the Doha Development Round is not coming closer to any real multilateral agreement. Moreover, preferential trade agreements, whether in the form of regionalism or bilateralism, very often include further issues such as services, product standards, financial investment or environmental issues. Most of these issues are, at least for the time being, being avoided in multilateral negotiations due to the increased complexity of negotiations between the great amount of nation-states involved. Being able to negotiate on issues such as trade in services or attracting investment is a great motivation of nation-states to sign preferential trade agreements. The desire to go deeper and broader in terms of liberalization is clearly the main motivation for nation-states. Furthermore, as proven by the stalemate in Doha Development Round, preferential trade agreements are concluded more smoothly and swiftly in comparison to multilateral trade agreements and this is proving to be yet another motivator for nation-states to pursue bilateral and regional trade agreements in order to remain competitive and provide its producers and exporters with increased market access.

The proliferation of preferential trade agreements since the mid 1990s has provided further challenges to the WTO and to the concept of multilateralism. Moreover, the spaghetti-bowl effect of the vast amount of PTAs has created a very complex international trade arena, where trade routes are overlapping. Further, it must be borne in mind that the large number of

overlapping trade agreements (the 'spaghetti-bowl' phenomenon) raises the transaction costs of global trade and has the effect of 'sand in the wheels'. This outcome is considerably reinforced by complicated rules of origin.⁵³ The WTO has, for both developed and developing countries, become a secondary priority subordinated to the demands of attractive trading partners.

Even though the WTO has adapted the role of an 'innocent by-stander' that can only provide its members with the negotiating forum and a dispute settlement mechanism (the Dispute Settlement Body), one can argue that the WTO still has a great role to play despite the proliferation of PTAs. Raising the awareness is one of the first steps. The Warwick Commission Report on Trade states: 'In the months and years ahead it will be important to remind trade and development policymakers, civil society, and the media where the WTO's obligations really lie and why others, including the aid ministries of national governments and the providers of technical assistance, should not fail in their trade-related aid commitments to developing countries.'⁵⁴ Besides raising awareness of the positive and negative impacts of the great proliferation of PTAs, further roles of the WTO include guiding its members to pursue 'fair' negotiations and to achieve them in a 'fair' manner, providing guidelines and rules for the signing of preferential trade agreements to ensure that the agreements do not conflict with the principles of the WTO, helping nation-states solve disputes regarding rules of origin disputes, and to continue fighting against non-tariff trade barriers in the form of technical standard restrictions, subsidies and dumping.

⁵³ Glania & Matthes. 2005. Page 102.

⁵⁴ Warwick Commission. The Multilateral Trade Regime: Which Way Forward? 2007. Page 42.

On the other hand, all members of the WTO must realize that their responsibilities as sovereign nation-states reach beyond domestic interests. Their responsibilities as sovereign countries also reach to multilateralism. While pursuing their own national interests, nation-states must provide the WTO with legitimacy to guide and control preferential trade agreements. One step towards this goal would be reporting the PTA and its conditions prior to its signing. As confirmed by Rohini Acharya, the Chief of section of the Regional Trade Agreement Section in the Trade Policies Review Division of the WTO, there is not much the WTO can do about the conditions at which PTAs are signed because they are reported after the negotiators have already signed the agreement. Reporting PTAs and the conditions at which they are agreed prior to the actual signing would greatly increase the transparency of the entire process and would be a great step towards multilateralizing PTAs.

As discussed in earlier sections, there is a great amount of actors involved and affected by the regulation of international trade, which the regulation of international trade even more challenging. The range of interests and opinions of individual member-states, groups of nation-states entering into preferential trade agreements, intergovernmental organisations, non-governmental organisations, multilateral organisations such as the WTO or the United Nations, producers and exporters, multinational corporations and the end-product consumers collide, intertwine and further increase the complexity of the topic at hand. The conditions at which international trade agreements are signed also have an effect on a great amount of issues ranging from food security and poverty issues to political and economic issues at all levels: individual, local, domestic, national and global. In the same way that our individual decisions as consumers affect negotiations on an international level, negotiations between nation-states have a major effect on the well-being of individuals across the world. These effects are greatly emphasized in

least developed countries struggling with critical issues such as poverty, famine and very low living standards. Such concerns should motivate leaders in both developed and developing countries to negotiate and pursue agreements, which would not only satisfy the demands of lobbyists of corporations and the demands of national interests, but also the needs of ordinary citizens and producers. Issues of poverty and the growing inequality between the worldsørichest and poorest citizens must be considered one of the priorities in the sphere of international trade.

When the GATT was founded, the purposes of such a multilateral agreement were not purely economical. One can argue that the reasons behind the formation of the GATT in 1948 were also to provide political stability in international relations. Unfortunately, the impact of trade agreements on both political issues as well as human rights issues seems to have been ignored. ðSeparate in their legal development in the twentieth century, human rights and trade regimes are, however, as offspring of an international post-world war order, both instruments of the same overall global interest, which is to promote peace and human welfare.ð⁵⁵ Discrimination, in the form of preferential trade agreements, has a negative impact of political stability between nation-states and can further hinder negotiations on issues related to, for example, the environment or human rights.

Firstly, as one can easily argue that preferential trade agreements will continue to be present in years to come, regardless of the successes or failures of future multilateral talks, it is important for nation-states to abide by identical rules and guidelines related to signing regional and bilateral trade agreements. Secondly, the Dispute Settlement Mechanism of the WTO will have a great role to play in years to come as many of the recently signed trade agreements are gradually getting implemented. Furthermore, the WTO should provide its members with

⁵⁵ Choudhury, Barnali. The Prospects of International Trade Regulation. 2011. Page 324.

counseling and advice on how to negotiate and bargain with each other in order to overcome the many economic, political and cultural differences. One can also argue that preferential trade agreements in the form of bilateral and regional trade agreements should be negotiated under WTO supervision. While it may seem unlikely, it would greatly improve the level of transparency of PTAs and provide further stability on the multilateral level.

While the WTO negotiations have been successful in decreasing tariffs on a global level, there has been considerably less success with decreasing subsidies and non-tariff trade barriers. Subsidies are a great hindrance to international trade because they provide artificial advantage to the producers of the subsidized sector and at the same time put producers in other countries, which would normally have comparative advantage in the production of the given product, at a disadvantage. Therefore, subsidies can be considered as trade-distorting measures and also as economically inefficient. Non-tariff trade barriers are very difficult to measure and include technical barriers to trade, countervailing measures, dumping and anti-dumping measures. In summary the agenda for the "Development Round" has evolved disappointingly for developing countries since Doha. It has done little to address their concerns in agriculture and it has done little to address problems posed by non-tariff barriers.⁵⁶ Non-tariff barriers and many behind-the-border protectionist measures will continue to pose a threat in years to come because of their invisibility. Therefore, minimizing and eliminating such trade-distorting measures must continue to be a priority for nation-states in both bilateral, regional and multilateral negotiations.

An important part of the research is also to conclude whether the initial hypothesis were proved or disproved. Hypothesis #1 states "Free trade has a positive impact on the economic welfare of both developed and developing countries." This hypothesis has been both proved and

⁵⁶ Stiglitz, 2005. Page 65.

disproved as it depends on many factors which have been discussed in previous chapters. In theory, free trade is welfare enhancing to both developed and developing countries. In practice, however, it may occur that developed countries are able to politically pressure developing or least developed countries into signing agreements which may be more beneficial to the developed countries. Nevertheless, as confirmed by the interview with the WTO, the negotiating power of developing countries such as the BRICs is swiftly increasing. Trade should be beneficial to all trading partners involved, regardless of whether the agreement at hand is a bilateral, regional or multilateral trade agreement. The guidelines relating to the procedure and the conditions at which trade agreements are signed and implemented must be strict, clear and identical for all WTO members.

The second hypothesis states: "Regional trading blocs are a form of protectionist policies and therefore put states outside of the region at a disadvantage." This hypothesis has been clearly disproved. The proliferation of preferential trade agreements in the form of bilateral and regional trade agreements has been, to a great extent, a result of the stalemate on the multilateral level. Countries are seeking to provide their producers and exporters with greater market access and therefore look to sign PTAs with both neighbouring and distant countries. Countries previously not involved eventually seek their own trading partners in order to remain competitive in the international trade arena. In theory, as preferential trade agreements are also a form of trade liberalization, it is difficult to argue that they are a form of protectionist policies.

The third hypothesis states: "Regional trading blocs consisting of developed and developing countries often put developing countries at a disadvantage." While many scholars would argue that least developed countries are often pressured to sign agreements at conditions which are more favourable to the developed countries with more bargaining power, it can be

argued that some of the major developing countries are becoming more and more powerful in trade negotiations. The role of some of the major developing countries has increased greatly and therefore it can be stated that the third hypothesis has been disproved. Nevertheless, some developing and least developed countries and their producers and exporters may consider themselves at a disadvantage in contrast to developed countries. Therefore, the WTO and the UNCTAD must continue to help the smaller developing countries and the least developed countries by advising them when negotiating bilateral or regional trade agreements with more economically and politically powerful countries.

One can conclude that the current state of international trade is not ideal. Multilateral negotiations are not making great advances and the Doha Development Round has been caught in a deadlock for several years now. Regionalism, on the other hand, is growing greatly as the number of preferential trade agreements in the form of bilateral or regional trade agreements has greatly increased in the past decade. This phenomenon has attracted the attention of many scholars who have analyzed the effects of preferential trade agreements on countries not involved in the agreements. Moreover, it must be further pointed out that many countries are pressured into accepting unfavourable trading conditions with economically stronger countries due to lobbying or other political reasons. The differences in economic power and negotiating power are more visible in bilateral trade agreements because the smaller nation-states are often facing more powerful states on their own. In multilateral negotiations, on the other hand, developing and least developed countries with similar interests can stick together and create alliances. Hence, one can assume that multilateral trade negotiations are more likely to help least-developed countries and developing countries while preferential trade agreements are more likely to help developed countries.

On the other hand, there are also reasons for an optimistic outlook. The recent increase in the amount, the level of integration and the importance of regional trading blocs, can make negotiations on a multilateral level easier and smoother. One can assume that negotiations between a smaller amount of members, consisting of groups of countries, can be considered more likely to achieve positive results rather than negotiations between a large amount of individual nation-states. This assumption will be confirmed or refuted in years to come. While the issues related to international trade are vast and complex, this research paper has attempted to introduce the reader with the most important challenges of international trade regulation and with the issues and possible solutions to the dilemma between regionalism and multilateralism in international trade.

ABSTRACT

This thesis is an empirical research on the impact that preferential trade agreements have on the welfare of individuals and nation-states. As the number of preferential trade agreements has been growing steadily, the on-going clash between regionalism and multilateralism will be a key topic throughout the research. Fair trade movements have been becoming more popular over the past few years as some organizations have strived to raise consumers' awareness regarding the great disparities among the profit margins of the producers or farmers in developing countries in comparison to those of the merchants and distributors in developed countries. Even though quantitative data will be used in order to portray the growing economic inequalities present in today's world, arguments will also be supported on grounds of ethics and morals relating to social justice.

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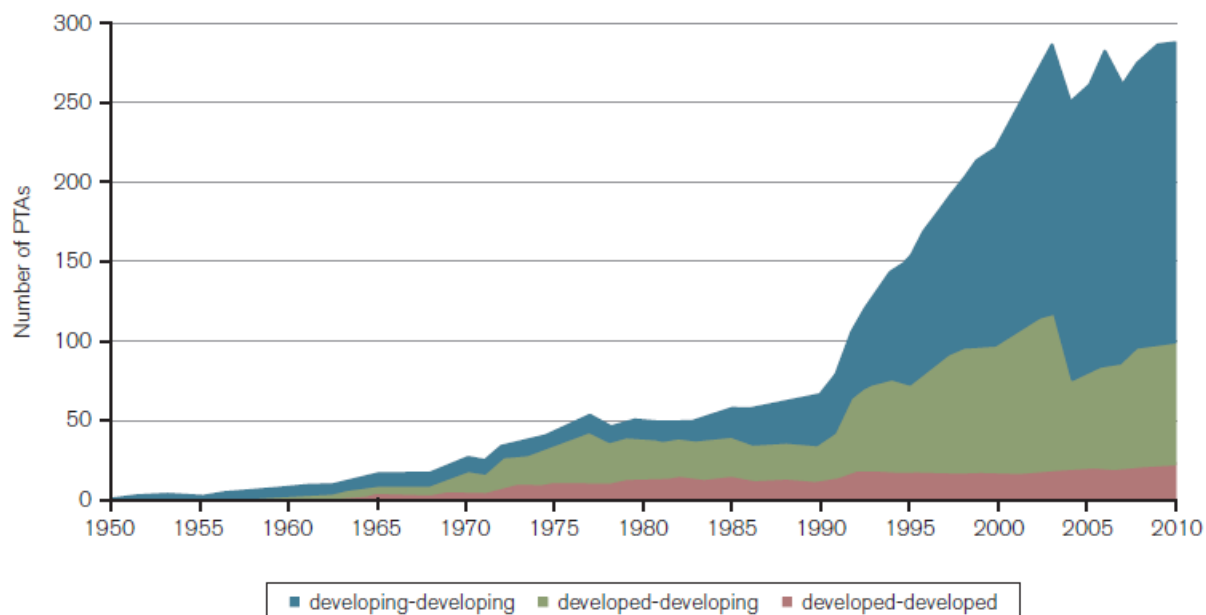
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Appendix

Figure 1:

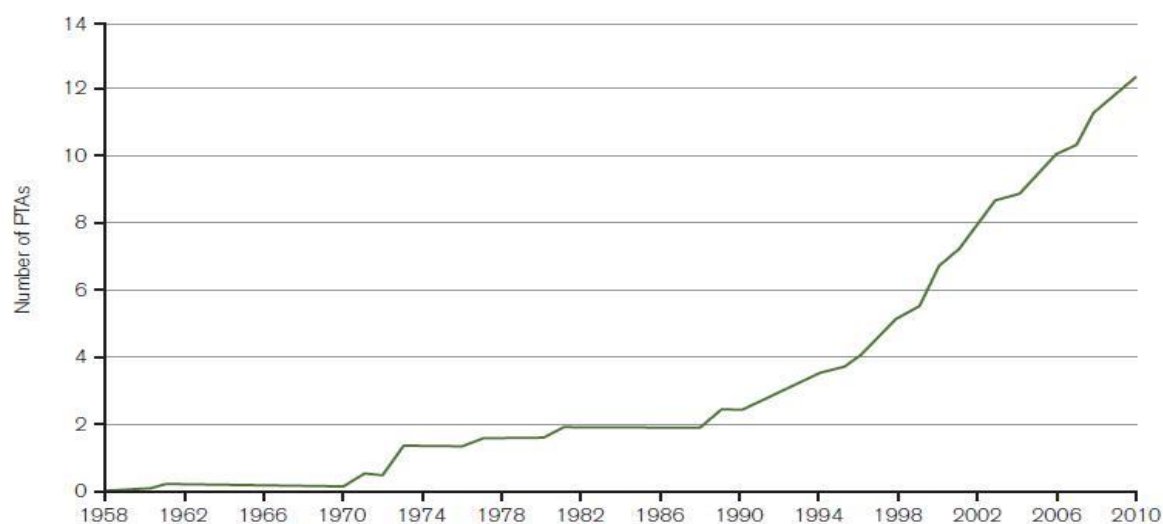
Figure B.1: Cumulative number of PTAs in force, 1950-2010, notified and non-notified PTAs, by country group



Source: WTO Secretariat.

Figure 2:

Figure B.1b: Average number of PTA participants per WTO member, 1958-2010, notified PTAs



Note: These figures include both GATT/WTO member and non-member trading partners in the context of PTAs per current WTO members (153).

Source: WTO Secretariat.

Figure 3:

Table 3.1. The nine trade negotiation rounds under the GATT and WTO

Year	Place/Name	Subjects covered	Number of countries
1947-8	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1950-1	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-2	Dillon Round	Tariffs	26
1963-7	Kennedy Round	Tariffs and anti-dumping measures	62
1973-9	Tokyo Round	Tariffs, non-tariff barriers (NTBs), 'framework' agreements	102
1986-3	Uruguay Round	Tariffs, NTBs, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO	123
2001-	Doha Round	(Under negotiation)	142 +

